

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF A PARTICULATE MATTER EMISSIONS MEASUREMENT ALLOWANCE FOR CALIFORNIA'S HEAVY-DUTY DIESEL IN-USE COMPLIANCE REGULATION

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of amendments to California's heavy-duty diesel engine (HDDE) test procedures. The proposed amendments would modify the measurement allowance for the regulated particulate matter emissions during heavy-duty diesel in-use compliance testing when using portable emissions measurement systems (PEMS). The proposed amendments are identical to the modifications already adopted by the United States Environmental Protection Agency (U.S. EPA) in November 2010.

DATE: June 23, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., June 23, 2011, and may continue at 8:30 a.m., on June 24, 2011. This item may not be considered until June 24, 2011. Please consult the agenda for the hearing, which will be available at least 10 days before June 23, 2011, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to section 1956.8, title 13, California Code of Regulations, and the following document incorporated by reference therein: "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as last amended September 27, 2010.

Background: Health and Safety Code section 43104 directs ARB to adopt test procedures to ensure compliance with emission standards for new heavy-duty motor vehicles. In 2006, ARB adopted a new in-use compliance test procedure that allows for a more efficient and cost-effective test method to conduct in-use compliance testing of

HDDEs. This new testing method requires manufacturers to emissions test a set number of selected heavy-duty trucks each year using PEMS. Because testing will be conducted in the field during normal day-to-day operation rather than in an environmentally controlled laboratory, ARB, U.S. EPA, and the impacted heavy-duty diesel engine manufacturers agreed to determine a “measurement allowance” for each pollutant to account for any potential difference in measurement accuracy. The Southwest Research Institute (SwRI), in San Antonio, Texas, and the University of California’s (at Riverside) Center for Environmental Research and Technology (CE-CERT) were contracted to develop PEMS measurement allowances for gaseous and particulate matter emissions. This development work was performed under the direction of a measurement allowance steering committee comprised of members from ARB, U.S. EPA and the heavy-duty diesel engine manufacturers. After a successful completion of a test program to determine gaseous measurement allowances in 2007, the gaseous measurement allowances were adopted by the Board in December 2007.

Description of Proposed Regulatory Action: Following the December 2007 Board hearing, the development work with SwRI and CE-CERT focused on developing an appropriate measurement allowance for particulate matter. This development effort was successfully completed in November 2010. Staff is proposing that the Board adopt a particulate matter measurement allowance value of 0.006 grams per brake horsepower-hour, recommended by SwRI and agreed upon by ARB staff, U.S. EPA, and the heavy-duty diesel engine manufacturers. Staff is proposing the adoption of the particulate matter measurement allowance value through amendments to section 1956.8, title 13, California Code of Regulations, and the incorporated “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” as last amended September 27, 2010.

Staff is also proposing other minor amendments to the above test procedures to correct an oversight in a previous rulemaking. Specifically, staff is proposing to add language to the test procedures for the exemption of armored vehicles and workover rigs from the engine shutdown system requirements. In December of 2008, the Board adopted these exemptions in the modification made to section 1956.8, title 13, California Code of Regulations. However, these changes were not included in the incorporated test procedures. The proposed action would rectify this oversight.

COMPARABLE FEDERAL REGULATIONS

Staff is proposing an amendment to adopt a new particulate matter measurement allowance to be used when conducting heavy-duty diesel in-use compliance testing using PEMS. U.S. EPA has already adopted the proposed particulate matter measurement allowance in November 2010, for its identical heavy-duty in-use compliance testing program.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for the Proposed Rulemaking – Public Hearing to Consider the Adoption of a Particulate Matter Emissions Measurement Allowance for California's Heavy-Duty Diesel In-Use Compliance Regulation."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, on May 5, 2011.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB's website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons: Mr. Stephan Lemieux, Manager, On-Road Heavy-Duty Diesel Section, at (626) 450-6162, or Mr. Dipak Bishnu, Air Resources Engineer, On-Road Heavy-Duty Diesel Section, at (626) 575-6696.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Ms. Lori Andreoni, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-4011, or Ms. Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on ARB's website for this rulemaking at www.arb.ca.gov/regact/2011/hdiuc11/hdiuc11.htm.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies, private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any

local agency or school district whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to state or local agencies. The proposed amendments do not affect State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. The ARB is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The proposed amendments would not have economic impacts on the manufacturers of HDDEs as U.S. EPA has already adopted the proposed measurement allowance for particulate matter.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. The amendments would apply to all manufacturers of HDDEs and make California requirements consistent with federal law. None of the manufacturers of HDDEs are located in California.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A more detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, California Code of Regulations, section 4, that the proposed regulatory action would not affect small businesses. There will be no incremental costs associated with staff's proposal in addition to those already needed to comply with the federal regulation.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. The public comment period for this regulatory action will begin on May 9, 2011. To be considered by the Board, written comments, not physically submitted at the meeting, must be submitted on or after May 9, 2011 and received **no later than 12:00 noon, June 22, 2011**, and must be addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

New Feature

You can now sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to:

<http://www.arb.ca.gov/board/online-signup.htm>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

ARB requests that written and email statements on this item be filed at least 10 days prior to the hearing so that ARB staff and Board members have additional time to consider each comment. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code sections 39600, 39601, 43013, 43018, 43100, 43101, 43104, 43105, and 43806; and Vehicle Code section 28114. This action is proposed to implement, interpret and make specific Health and Safety Code sections 39002, 39003, 39500, 43000, 43013, 43018, 43100, 43101, 43102, 43104, 43106, 43202, 43204, 43206, 43210, 43211, 43212, 43213, and 43806; and Vehicle Code section 28114.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15-days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California 95814, (916) 322-2990.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format (i.e., Braille, large print, etc.) or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno (por decir, sistema Braille, o en impresión grande) u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

/s/

James N. Goldstene
Executive Officer

Date: April 26, 2011

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.